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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,479	03/01/2004	Darrell Reginald May	85002	9515
27975	7590	09/06/2006		
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE P.O. BOX 3791 ORLANDO, FL 32802-3791				
			EXAMINER RAMPURIA, SHARAD K	
			ART UNIT 2617	PAPER NUMBER

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/790,479

Applicant(s)

MAY ET AL.

Examiner

Sharad Rampuria

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-14 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-14 and 16-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

I. The Art Unit location of this application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

#### ***Continued Examination Under 37 CFR 1.114***

II. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/17/2006 has been entered.

III. The current office-action is in response to the amendments/remarks filed on 06/19/2006. Accordingly, Claims 8, 15 are cancelled and Claims 1-7, 9-14 and 16-23 are imminent for further assessment as follows:

#### ***Claim Rejections - 35 USC § 102***

IV. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4-7, 9-14 and 16-23 are rejected under 35 U.S.C. 102 (b) as being anticipated by **Koskan** [US 6181956].

As per claims 1, 16, **Koskan** teaches:

A mobile wireless cellular communications device (Abstract, Col.2; 7-17) comprising:

A wireless cellular transceiver (120; Fig.2, Col.2; 18-38) and a controller (240; Fig.2, Col.2; 29-37, Col.2; 39-52) for cooperating therewith for receiving text messages from a wireless communications network; (Col.2; 39-52) and

A headset (125; Fig.3, Col.2; 53-63) output connected to said controller (240; Fig.2, Col.2; 39-52); said controller for switching between a normal message mode and a hands-free audio message mode based upon a connection between said headset output and a headset, and when in the audio message mode, outputting at least one audio message comprising speech generated from at least one of the received text messages via said headset output. (Col.2; 39-63, Col.2; 64-Col.3; 15, Col.3; 32-38).

As per claims 2, 10, 17, 21, **Koskan** teaches:

The mobile wireless communications device of claims 1, 9, 16, 20, wherein said headset output comprises a wireless headset output for establishing a wireless connection with the headset. (120; Fig.1, Col.1; 62-66)

As per claims 4, 11, 18, 22, **Koskan** teaches:

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The mobile wireless communications device of claims 1, 9, 16, 20, further comprising a user interface device connected to said controller, and wherein said controller switches to the audio message mode based upon an audio message mode command provided by a user via said user interface device. (250; Fig.2, Col.2; 29-37, Col.2; 64-Col.3; 15)

As per claim 5, **Koskan** teaches:

The mobile wireless communications device of claim 4 wherein said user interface device comprises a keypad connected to said controller. (255; Fig.2, Col.2; 29-37, Col.2; 64-Col.3; 15)

As per claims 6, 12, 19, 23, **Koskan** teaches:

The mobile wireless communications device of claims 1, 9, 16, 20, further comprising a text-to-speech module for cooperating with said controller to convert the at least one text message to the at least one audio message. (Col.3; 5-9, 32-38)

As per claims 7, 14, **Koskan** teaches:

The mobile wireless communications device of claims 1, 9, further comprising a display connected to said controller for displaying the text messages. (252; Fig.2, Col.2; 29-37, Col.3; 28-31)

**Claim 9** is the system claim corresponding to device claim 1 respectively, and rejected under the same rational set forth in connection with the rejection of claim 1 respectively, above.

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As per claim 13, **Koskan** teaches:

The communications system of claim 9 wherein said controller is also for generating a conversion request for the at least one text message and cooperating with the wireless transceiver to forward the conversion request to said wireless communications network; and wherein said wireless communications network receives the conversion request and further comprises a text-to-speech module for converting the at least one text message to the at least one audio message, and wherein said wireless communications network sends the at least one audio message to said at least one wireless communications device. (240; Fig.2, Col.2; 64-Col.3; 15, Col.3; 32-38)

**Claim 20** is the computer readable medium claim corresponding to device claim 1 respectively, and rejected under the same rational set forth in connection with the rejection of claim 1 respectively, above.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Koskan** in view of Zahavi et al. [US 6577859].

As per claim 3, **Koskan** teaches all the particulars of the claim except wherein said headset output comprises a headset jack for a wired headset. However, Zahavi teaches in an analogous art, that the mobile wireless communications device of claim 1 wherein said headset output comprises a headset jack for a wired headset. [24; Fig.2, Col.7; 46-50] Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify **Koskan** including wherein said headset output comprises a headset jack for a wired headset in order to provide a system and method which allows a cellular phone user to communicate with a caller when the user is unable to speak aloud.

### ***Response to Amendments & Arguments***

V. Applicant's arguments with respect to claims 1-7, 9-14 and 16-23 have been fully considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

VI. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870.

The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or [EBC@uspto.gov](mailto:EBC@uspto.gov).



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Art Unit 2617